

REMARKS

Claim 44 has been amended. No new matter has been added by this amendment.

In paragraph 4 of the Office Action, the Examiner rejected Claims 1-4, 7-9, 28-38, 40-44 and 46-68 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,830,776 to Carlson et al. ("Carlson") in view of U.S. Patent No. 4,439,548 to Weisman. Applicant expressly traverses this rejection and maintains that each of the pending claims is novel and non-obvious. Moreover, Applicant maintains that each of the pending claims comprises a combination of elements that is patentable as a whole.

In just one aspect of those patentable combinations, "the second polyol is between about 5 wt % and about 20 wt %, based on the total weight of the first and second polyols being 100 wt %." Applicant herewith submits a supplemental declaration from the inventor, Wade Brown, which supports the conclusion that this is one of the aspects that supports the patentability of the claims.

Accordingly, Applicant respectfully submits that Claims 1, 44 and 62 are patentable. In addition, Claims 2-4, 7-9, 28-38, 40-43, 46-61, and 63-68, which are dependent on Claims 1, 44, or 62, are patentable at least for the reasons stated above, as well as for other novel and nonobvious features recited therein.

No Disclaimers or Disavowals

Applicant respectfully submits that the claims are in condition for allowance. Furthermore, any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion or that the limitation discussed is essential or critical; rather, patentability must rest on each claim taken as a whole.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, no acquiescence, disclaimer or estoppel is intended or should be implied thereby. Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made only to expedite prosecution of the present

Application No.: 10/764,012
Filing Date: January 23, 2004

application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicants may not have presented in all cases, arguments concerning whether the applied references render the claims anticipated or obvious, and Applicants reserve the right to later submit additional arguments of patentability. Applicant also reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application..

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 5, 2009

By: /Jared C. Bunker/

Jared C. Bunker.
Registration No. 58,474
Attorney of Record
Customer No. 20995
(949) 760-0404